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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/652,100	08/28/2003	Richard Scott Weston	BLSKY.011A	9860

20995 7590 01/06/2010  
KNOBBE MARTENS OLSON & BEAR LLP  
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IRVINE, CA 92614

EXAMINER
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ANDERSON, CATHARINE L

ART UNIT	PAPER NUMBER
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3761

NOTIFICATION DATE	DELIVERY MODE
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01/06/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com  
eOAPilot@kmob.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/652,100	<b>Applicant(s)</b> WESTON, RICHARD SCOTT	
	<b>Examiner</b> Lynne Anderson	<b>Art Unit</b> 3761	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 October 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3, 6-23, 32-37, 57-62, 66, 67 and 71-87 is/are pending in the application.
- 4a) Of the above claim(s) 32-37 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3, 57-60 and 76 is/are allowed.
- 6) ☒ Claim(s) 6-23, 61, 62, 66, 67, 71-75 and 77-87 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/20/09</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 22 October 2009 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 6-13 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 6-11, 66, 71-75, and 78-85 are rejected under 35 U.S.C. 102(e) as being anticipated by Samuelsen et al. (6,482,491).

5. With respect to claims 6 and 78, Samuelsen discloses an appliance comprising a cover 'a', as shown in figure 1, adapted to cover and enclose a body part being treated,

Art Unit: 3761

the cover comprising a plurality of protrusions spaced apart across the outside surface of the cover, as shown in figure 1. The cover comprises a flexible material, and therefore the protrusions are fully capable of collapsing under pressure and being used to monitor the pressure at the site being treated.

6. With respect to claims 7 and 83, the appliance further comprises adhesive material to secure the cover to the tissue, as disclosed in column 1, lines 15-20.

7. With respect to claims 8-9 and 81-82, the protrusions would be displaced inwardly under pressure.

8. With respect to claim 10, the protrusions are bumps, as shown in figure 1.

9. With respect to claims 11 and 80, the protrusions are bellows, as shown in figure 3.

10. With respect to claim 66, the protrusions have a closed upper end, as shown in figure 2.

11. With respect to claims 71-72 and 79, the protrusions are present on the entire cover, as shown in figures 1 and 3, which is larger than the wound to be treated.

12. With respect to claim 73, the cover is generally planar, as shown in figure 1.

13. With respect to claim 74, the cover is a flexible sheet, as disclosed in column 6, lines 13-14.

14. With respect to claim 75, the protrusions are spaced apart, as shown in figure 1.

15. With respect to claims 84-85, the appliance further comprises an absorbably packing material 'c' located between the cover and the wound, as shown in figure 3.

***Claim Rejections - 35 USC § 103***

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. Claims 12-23, 61-62, 77, and 86-87 are rejected under 35 U.S.C. 103(a) as being unpatentable over Samuelsen et al. (6,482,491).

18. With respect to claims 12-13, Samuelsen discloses all aspects of the claimed invention with the exception of the pressure sensor comprising a different color or an audible sound. Use of color changes and audible alarms are widely known in the art as signaling devices. It would therefore be obvious to one of ordinary skill in the art at the time of invention to provide the wound dressing appliance of Samuelsen with a different color or an audible sound, to achieve the predictable result of providing a noticeable signal.

19. With respect to claims 14-23, 61-62, 77, and 86-87, Samuelsen discloses all aspects of the claimed invention with the exception of a vacuum system and a collection system. The use of reduced pressure and collection systems to aid in the healing and drainage of wounds is widely known in the art. It would therefore be obvious to one of ordinary skill in the art at the time of invention to provide the wound dressing appliance of Samuelsen with a vacuum and collection system, to achieve the predictable result of aiding in the healing and drainage of the wound.

***Allowable Subject Matter***

20. Claims 1-3, 57-60, and 76 are allowed.

21. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record fails to disclose the claimed invention. Specifically, the closest prior art of record, Orgill et al. (2003/0108587), fails to disclose an appliance for administering reduced pressure to a wound comprising a cover and an absorbable matrix, wherein the cover comprises a temperature-sensitive material so the temperature can be monitored by the appearance of the cover. Likewise, a pressure monitor

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynne Anderson whose telephone number is (571)272-4932. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3761

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/L. A./

Examiner, Art Unit 3761

/Tatyana Zalukaeva/

Supervisory Patent Examiner, Art Unit 3761